

Appl. No. 10/736,282
Docket No. AA556C
Amdt. dated April 11, 2008
Reply to Office Action mailed on March 17, 2008
Customer No. 27752

REMARKS

Claim Status

Claims 1-18 are pending in the present application. No additional claims fee is believed to be due.

Rejection Under 35 USC §103(a) Over Nakahata in view of Malowaniec

Claims 1-18 have been rejected under 35 USC §103(a) as being unpatentable over U.S. Pat. No. 5,873,868 to Nakahata, et al. (hereinafter “Nakahata”) in view of U.S. Pat. No. 6,049,915 to Malowaniec (hereinafter Malowaniec). Applicants respectfully traverse the rejection.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (MPEP §2143).

The Office Action asserts that Nakahata teaches an extensibility controlling means because the “chassis layer, while elastically extensible, is limited in its extensibility by the elongation to break that is an inherent property of the chassis layer material.” (The Office Action, page 2). Applicants respectfully disagree with the Office’s reading of Nakahata and submit that the elongation to break value of a material is not an extensibility controlling means as recited in claim 1 of the present application. In addition, it is Applicants’ position that Malowaniec does not overcome the failings of Nakahata.

Claim 1 recites, *inter alia*, an extensibility controlling means to control the extensibility of the chassis layer, wherein the extensibility controlling means **inhibits** the chassis layer from extending beyond extensibility causing breakage of the chassis layer.

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Elongation to break is not defined in the present application or in the Office Action. Therefore, Applicants will assume that elongation to break is the distance (or percent of initial length) that a material can be stretched by a tensile force before experiencing a sudden decrease in the amount of observed tensile force exerted (i.e., experiencing catastrophic failure). In other words, it is Applicants' understanding that elongation to break is basically the distance a material can be stretched before it breaks.

While Applicants' appreciate that extensible materials may have an inherent elongation to break value, elongation to break is just that -- a value or measurement of the distance that a material can be stretched before it breaks. Applicants respectfully submit that the value of the distance a material can be stretched before it breaks does not inhibit the material from being stretched beyond that distance; it is simply a measurement of where the material breaks.

During patent examination, the pending claims must be "given their broadest **reasonable** interpretation **consistent with the specification**." (*Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005)) (emphasis added). The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999)).

The extensibility controlling means recited in claim 1 of the present application comprises a tangible, structural feature that is discrete from the chassis layer, and not just an inherent material property. The specification of the present application provides ample description and examples of an extensibility controlling means, and Applicants submit that one of ordinary skill in the art would understand what is meant by an extensibility controlling means. (See, page 11, line 26-page 12, line 40 and Figs. 4 and 5 of the present application). Therefore, Applicants submit that inherent elongation to break values of the materials disclosed in the chassis of Nakahata are not the same as the extensibility controlling means recited in claim 1 of the present application.

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With regard to claim 2, Applicants continue to submit that the portion of Nakahata cited in Office Action does not teach or suggest a chassis layer, let alone a chassis layer where the extensibility causing breakage of the chassis layer is more than 20%, as recited in claim 2 of the present application.

With regard to claims 3-6, the combination of Nakahata and Malowaniec does not teach or suggest an extensibility controlling means. Specifically with regard to claim 3, there is certainly no teaching or suggestion of an extensibility controlling means that inhibits the chassis layer from extending beyond 20 % at a tension force of 125 grams/25mm.

In light of the above remarks, it is Applicants' position that the combination of Nakahata and Malowaniec does not teach or suggest each and every element of claim 1 or any claim depending therefrom. Accordingly, Applicants respectfully request that the rejection of claims 1-18 under 35 U.S.C. §102(a) be reconsidered and withdrawn.

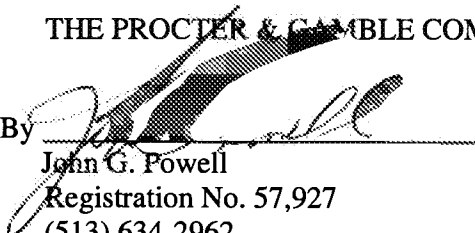
Conclusion

This response represents an earnest effort to place the present application in proper form and to distinguish the invention as claimed from the applied reference(s). In view of the foregoing, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By


John G. Powell
Registration No. 57,927
(513) 634-2962

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